

**TOWN OF GRAFTON
GRAFTON HOUSING TRUST**

AFFORDABLE HOUSING PROCEDURES MANUAL

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(Will finalize after draft is approved)**

Table of Contents

	Page
I. Introduction	1
A. Purpose	1
B. Local Initiative Program Summary	1
C. LIP Requirements	1
D. Other Subsidy Programs	4
II. LIP Comprehensive Permit Projects	5
A. Approval Process	5
B. Summary of Town Responsibilities	11
III. LIP Local Action Units	12
A. Approval Process	13
B. Summary of Town Responsibilities	19
Appendices	
Appendix 1 – HUD Income Limits	21
Appendix 2 – SHI New Units Request Form	22
Appendix 3 –Income and Assets Requirements	24
Appendix 4 – Model Deed Rider (Ownership)	29
Appendix 5 – Glossary of Housing Terms	46

TOWN OF GRAFTON

AFFORDABLE HOUSING PROCEDURES MANUAL

I. Introduction

A. Purpose

This Procedures Manual is prepared as a step-by-step resource for Town officials to refer to in its efforts to insure that affordable units created either privately or publicly in Grafton will be included in the Subsidized Housing Inventory.

B. Local Initiative Program (LIP)

The Local Initiative Program (LIP) was authorized in 1989 by state regulation (760 CMR 45.00) to offer municipalities greater flexibility in their efforts to provide affordable housing. Regulations and guidelines have been subsequently revised, the latest in February 2008.

The state's Department of Housing and Community Development (DHCD) administers the Program and provides technical assistance and other services to facilitate Chapter 40B developments and locally produced affordable units. Using LIP communities can work cooperatively with developers to create affordable housing without state and federal financial resources. Any project that expects to receive financing from DHCD or other subsidizing agency, must apply to that specific program and not to LIP.

LIP supports two types of housing – 1) Local Initiate Projects that are processed through what is commonly referred to as the “friendly” 40B process¹ (see Section II) and 2) Local Action Units (LAUs) that are a result of a locally sponsored effort such as local zoning or special permit process (see Section III).

C. LIP Requirements

The general requirements of LIP include insuring that projects are consistent with sustainable or smart growth development principles, green building as well as local housing needs. LIP recognizes that there is a critical need for all types of housing but encourages family and special needs housing in particular. Age-restricted housing (over 55) is allowed but the locality must demonstrate actual need and marketability. DHCD has the discretion to withhold approval of age-restricted housing if other such housing units within the community remain unbuilt or unsold or if the age-restricted units are unresponsive to the need for family housing within the context of other recent local housing efforts.

¹ Chapter 774 of the Acts of 1969 established the Massachusetts Comprehensive Permit Law (Massachusetts General Laws Chapter 40B) to facilitate the development of affordable housing for low- and moderate-income households (defined as any housing subsidized by the federal or state government under any program to assist in the construction of low- or moderate-income housing for those earning less than 80% of median income) by permitting the state to override local zoning and other restrictions in communities where less than 10% of the year-round housing is subsidized for low- and moderate-income households.

Specific LIP requirements include the following by category:

1. *Eligibility Requirements (More detailed information is included in Appendix 3)*

- For homeownership projects without age restrictions, applicants must be a first-time homebuyer who has not owned a home within the last three (3) years unless they qualify under a number of exceptions including –
 - i. They are a displaced homemaker where the individual owned a home with his or her partner or resided in a home of the partner and are single parents.
 - ii. Owned a principal residence not permanently affixed to a permanent foundation.
 - iii. Owned a property that was not in compliance with state, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure.
- Must be affordable to those earning at or below 80% of area median income adjusted by family size and annually by HUD (see Appendix 1 for most recent income limits). Applicants for affordable units must meet the program income limits in effect at the time they apply for the unit and must continue to meet income limits in effect when they actually purchase a unit.
- For rental projects the calculation of income includes an imputation of 5% of the value of total household assets that is added on to the income for age-restricted units only.
- For homeownership units, the household may not have owned a home within the past three years except for age-restricted “over 55” housing.
- For homeownership projects, assets may not be greater than \$75,000 except for age-restricted housing where the net equity from the ownership of a previous house cannot be more than \$200,000.
- Income and asset limits determine eligibility for lottery participation.

2. *Allowable Sales Prices and Rents²*

- Phased developments can recalculate the affordable sales prices prior to marketing each phase, but each phase will require a new Affirmative Fair Housing Marketing Plan (to be approved by DHCD or other Subsidizing Agency if program other than LIP is used.)

Rents are calculated at what is affordable to a household earning 80% of area median income adjusted for family size, assuming they pay no more than 30% of their income on housing. Housing costs include rent and payments for heat, hot water, cooking fuel, and electric. If there is no municipal trash collection a trash removal allowance should be included. If utilities are separately metered and payed by the tenant, the LIP rent is reduced based on the area’s utility allowance (refer to Section 8 allowances based on specific unit type and size from the Grafton Housing Authority). Indicate on the DHCD

² DHCD has an electronic mechanism for calculating maximum sales prices on its website at www.mass.gov/dhcd.

application whether the proposed rent has been determined with the use of utility allowances for some or all utilities.

- Sales prices of LIP units are set so a household earning 70% of area median income would have to pay no more than 30% of their income for housing. Housing costs include mortgage principal and interest on a 30-year fixed term mortgage at 95% of purchase price, property taxes, condo fees³, private mortgage insurance (if putting less than 20% of purchase price down), and hazard insurance.
- The initial maximum sales price or rent is calculated as affordable to a household with a number of household members equal to the number of bedrooms plus one (for example a two-bedroom unit would be priced based on what a three-person household could afford).
- DHCD will review condo fee estimates and establish a maximum initial fee as part of the calculation of maximum sales price. The percentage interest assigned to the LIP units must conform to the approved condo fees, which may require a lower percentage interest in comparison to the market units.

3. *Allowable Financing and Costs*

- Housing costs require a 3% downpayment of which half must come from the buyer's own funds; requires a 30-year, fixed-rate mortgage that is no more than two (2) percentage points above the current MassHousing rate; and caps monthly housing costs at 38% of monthly income for a household earning 80% of area median income adjusted for household size.
- Allowable development costs include the "as is" value of the property based on existing zoning at the time of application for a project eligibility letter (initial application to DHCD). Carrying costs (i.e., property taxes, property insurance, interest payments on acquisitions financing, etc.) can be no more than 20% of the "as is" market value unless the carrying period exceeds 24 months. Reasonable carrying costs must be verified by the submission of documentation not within the exclusive control of the applicant.
- Appraisals are required except for small projects of 20 units or less at the request of the Board of Selectmen where the applicant for the LIP comprehensive permit submits satisfactory evidence of value.
- Appraisals may take into account the probability of obtaining a variance, special permit, or other zoning relief but it must exclude any value relating to the possible issuance of a comprehensive permit.
- Profits are limited to no more than 20% of total allowable development costs in homeownership projects.
- In regard to rental developments, payment of fees and profits are limited to no more than 10% of total development costs net of profits and fees and any working capital or reserves intended for property operations. Beginning upon initial

³ DHCD will review condo fee estimates and approve a maximum condo fee as part of the calculation of maximum sales price. The percentage interests assigned to the condo must conform to the approved condo fees and require a lower percentage interest assigned to the affordable units as opposed to the market rate ones. DHCD must review the Schedule of Beneficial Interests in the Master Deed to confirm that LIP units have been assigned percentage interests that correspond to the condo fees.

occupancy and then proceeding on an annual basis, annual dividend distributions will be limited to no more than 10% of the owner's equity in the project. Owner's equity is the difference between the appraised as-built value and the sum of any public equity and secured debt on the property.

- For LIP comprehensive permit projects, DHCD requires all developers to post a bond (or a letter of credit) with the municipality to guarantee the developer's obligations to provide a satisfactory cost certification upon completion of construction and to have any excess profits, beyond what is allowed, revert back to the municipality. The bond is discharged after DHCD has determined that the developer has appropriately complied with the profit limitations.
- For all projects that have not received final approval as of April 1, 2008, guidelines require that the financial surety be provided through credit, bond and cash to ensure completion of the cost examination. The amount varies from \$25,000 for smaller projects to \$100,000 for large projects.
- DHCD will require that all Certified Public Accountants be prequalified to perform the cost certifications.
- No third party mortgages are allowed for homeownership units.

4. *Marketing and Outreach (see Section III.A.3 for details)*

- The Subsidizing Agency can reject the qualifications for any developer or contractor to conduct the outreach/marketing and lottery and establishes criteria that entities/individuals must meet including that the entity has successfully (without the need for intervention to address fair housing complaints) carried out similar responsibilities for a minimum of three (3) projects in Massachusetts or the individual contractor has carried out similar responsibilities for five (5) projects in the state. The entity must also demonstrate that it has the capacity to address matters related to English language proficiency.
- Marketing and outreach, including lottery administration in adherence with all Fair Housing laws and all materials must include the fair housing logo and slogan.
- Outreach should be listed with the Mass Access Housing Registry for rental and homeownership units that are accessible, CHAPA's affordable lottery web page and the Massachusetts Affordable Housing Alliance's web site.
- Marketing should be included in non-English publications based on the prevalence of particular language groups in the regional area.
- Advertisements must include a telephone number where applicants can request applications via mail.
- LIP requires that the lottery draw and rank households by size.
- A maximum of 70% of the units may be local preference units for those who have a connection to the community as defined by the community. (**What are Grafton's criteria?**) Communities must demonstrate, however, that there is a need for local preference and that it will not have a disparate impact on protected classes. The Subsidizing Agency must also approve the local preference scheme (prior to the finalization of the comprehensive permit).
- Durational residency preferences are not permitted.
- The Marketing Plan must affirmatively provide outreach to area minority communities to notify them about availability of the unit(s) but this advertising

cannot include local residency preferences. The Marketing Plan must address the resale of the affordable units.

- Marketing materials must be available/application process open for a period of at least 60 days.
- Marketing should begin about six (6) months before occupancy.
- Lottery must be held unless there are no more qualified applicants than units available.

5. *Regulatory Requirements*

- The affordable units design, type, size, etc. must be the same as the market units and dispersed throughout the development.
- Units developed through LIP as affordable must be undistinguishable from market units as viewed from the exterior (unless the project has a DHCD-approved alternative development plan that is only granted under exceptional circumstances) and contain complete living facilities.
- For over 55 projects, only one household member must be 55 or older.
- Household size relationship to unit size is based on “households” = number of bedrooms plus one – i.e., a four-person household in a three-bedroom unit (important also for calculating purchase prices of the affordable units for which LIP has a formula as noted above).
- The model LIP regulatory agreement must be used which provide for affordability in perpetuity. DHCD will approve a shorter term of affordability if the applicant can demonstrate that the longer term is not feasible or not in the public interest.
- It is important to note that tenants who become over income can stay in the unit until they earn more than 140% of the maximum allowable limit (e.g. 112% of area median income if using the 80% income level).
-
- All affordable units for families must have at least two or more bedrooms and meet state sanitary codes and these minimum requirements –

1 bedroom – 700 square feet/1 bath
2 bedrooms – 900 square feet/1 bath
3 bedrooms – 1,200 square feet/ 1 ½ baths
4 bedrooms – 1,400 square feet/2 baths

- The Town must adhere to the appellate Tax Board’s 1999 ruling that the restricted, below-market value of an affordable unit is the value that should be used for real estate tax purposes.

The *Grafton Housing Trust*, staffed by the *Assistant Town Planner*, should review the LIP application and make sure all of these requirements are met.

D. Other Subsidy Programs

Beyond LIP, there are a wide range of state and federal housing subsidy programs, each with their own requirements and each enabling affordable units to be counted as part of the Subsidized Housing Inventory. Most of these funds are accessed through Notices of Availability that happen typically once or twice a year. State programs require the completion of the One Stop Application by a specific deadline, and HUD requires the prescribed Super NOFA application format. For the most part the developer will apply for these funds with the support of the Town of Grafton (municipalities can apply directly for certain funds such as Community Development Block Grant-funded programs). A letter of support from the Chief Elected Officer is usually an important part of the application. A complete list of these programs is included in DHCD's Chapter 40B requirements under the Subsidized Housing Inventory subsection.

The Town and developer should use LIP when it subsidizes affordable units through Community Preservation funds unless another subsidy program is used.

II. LIP Comprehensive Permit Projects

The process that is required for using LIP for 40B developments – “friendly” comprehensive permit projects – is largely developer driven. It is based on the understanding that the developer and Town are working together on a project that meets community needs. Minimum requirements include:

- (i) 1. Submission of the site approval application from the municipality's chief elected official, the Board of Selectmen in the case of Grafton, with a letter of support from the local housing partnership, the Housing Trust or Affordable Housing Committee for Grafton.
- (ii) 2. At least 25% of the units must be affordable and occupied by households earning at or below 80% of area median income or at least 20% of units restricted to households at or below 50% of area median income.
- (iii) 3. Affordability restrictions must be in effect in perpetuity, to be monitored by DHCD through a recorded regulatory agreement unless the applicant can prove that this term is infeasible and not in the public interest.
- (iv) 4. Project sponsors must prepare and execute an affirmative fair marketing plan that must be approved by DHCD.
- (v) 5. Developer's profits are restricted per Chapter 40B requirements.

The contact person at DHCD is Erin Bettez of the LIP staff (phone: 617-573-1309; fax: 617-573-1330; email: erin.bettez@state.ma.us). For legal questions contact Elsa Campbell, Housing Specialist (phone: 617-573-1321; fax: 617-573-1330; email: elsa.Campbell@state.ma.us).

A. Approval Process

LIP comprehensive permit developments proceed as follows:

1. Developer Meetings

Developer meets with the *Grafton Housing Trust* to present preliminary project plans and obtain feedback. This initial meeting represents an opportunity for the Town to provide guidance on local needs and priorities and to indicate what specific changes might be warranted for the developer to secure local support. This meeting should involve a fair and productive exchange to arrive at a project that will be financially feasible and within the context of local LIP policies or Housing Guidelines (these should be revisited!!!) DHCD expects local public officials will act in good faith without unreasonably withholding support. Additionally, to increase the level of affordability the developer and *Housing Trust* may decide to apply for public subsidies, including CPA. In such case the *Housing Trust* should advocate for this funding including providing letters of support to be drafted by the *Assistant Planner*.

2. *LIP Comprehensive Permit Application*

Once the Town and developer have reached agreement on the project they prepare a LIP Comprehensive Permit Application for submission to DHCD. The application is for a Determination of Project Eligibility (Site Approval) that is a prerequisite for submitting a comprehensive permit application to the ZBA, and this must be submitted by the chief executive officer. DHCD does charge an application fee.

All applications must be in the format subscribed by DHCD and accessible at www.mass.gov/dhcd. They must also include the following components:

- Letter of support from *Grafton Board of Selectmen, Grafton Housing Trust* and a construction lender (letters to be drafted by the *Assistant Planner*).
- Documentation of site control (i.e., deed, option, purchase and sale agreement).
- Project plans including site plan, elevations and floor plans as well as unit descriptions (i.e., size, type, #bedrooms, location within project, and proposed rents or sales prices).
- Financial pro forma based on a per square foot price (rental developments must use format in the state's One Stop Application (www.OneStopApp.com)).
- Description of site conditions and necessary permits.
- Summary Phase 1 21E environmental report and proposed efforts to mitigate any environmental impacts.
- Appraisals may take into account the probability of obtaining a variance, special permit, or other zoning relief but it must exclude any value relating to the possible issuance of a comprehensive permit. Appraisals must be conducted by a MAI-approved appraiser.
- Letter from developer stating that any age-restricted housing will comply with fair housing laws.
- Age-restricted housing also requires a market study for applicable HUD region that includes information on the status of similar projects in the area.
- Affirmative fair marketing plan including a lottery plan. This should be prepared by the developer's selected Marketing Agent or the *Housing Trust (Assistant Town Planner to prepare for the Trust with initial support of a consultant)*.
- Agreement to execute uniform documents.

The developer/project sponsor submits the LIP application to DHCD.

3. *DHCD Review/Determination of Project Eligibility*

DHCD's review involves consideration of the following items:

1. Sustainable development criteria (redevelop first, concentrate development, be fair, restore and enhance the environment, conserve natural resources, expand housing opportunities, provide transportation choice, increase job opportunities, foster sustainable businesses, and plan regionally);
2. The proposed site plan is appropriate in the context of the surrounding area, taking into account previous municipal action to meet affordable housing needs;
3. Green building elements are encouraged;
4. Number and type of units are appropriate for the site (recent design guidelines suggest 8-40 units per acre for low-rise/townhouse developments, 24-70 units per acre for garden-style apartments and 40-160 units per acre for midrise development);
5. Design guidelines also encourage first floor master bedrooms and bathrooms in units for the elderly, disabled and/or age-restricted.
6. Pricing of units to be affordable to households earning no more than 70% of area median income based on spending no more than 30% of income on housing;
7. Project sponsor and development team meet general eligibility standards of LIP;
8. Affirmative marketing plan including basic marketing and lottery standards;
9. Requirements for a cost certification after project completion;
10. The initial pro forma appears financially feasible; and
11. Site visit.

If the LIP Comprehensive Permit Application meets the required standards, DHCD issues its Determination of Project Eligibility (site eligibility letter) that enables the developer to bring the proposal to the ZBA for processing the comprehensive permit. The term of the Determination is typically two years. Any changes in any of the conditions in the Determination of Project Eligibility (i.e., number of units, unit mix, size, design, location, extension of the term) require that the Determination be amended by DHCD. The *Housing Trust* should insure that DHCD is notified immediately if there are material changes in the terms of the Determination.

4. *Comprehensive Permit*

The developer prepares the comprehensive permit application and enables the *Housing Trust* to review the application prior to submission to the ZBA to insure compliance with the initial submission to DHCD regarding the LIP Comprehensive Permit Application.

5. *ZBA Hearing*

The Grafton Zoning Board of Appeals holds its hearings on the comprehensive permit application. The *Grafton Housing Trust* should attend the initial hearing and/or prepare a letter to go on record that the comprehensive permit application is through LIP and that the Town has been supportive of the project.

For more information on the hearing process, refer to Local 40B Review and Decision Guidelines at www.mhp.net/40B.

6. *Regulatory Agreement/Use Restrictions*

Once the comprehensive permit has been approved and issued and all of the appeal periods have passed, the developer must submit the comprehensive permit to LIP staff at DHCD. DHCD will then send a letter to the project sponsor's attorney with three blank copies of the standard LIP Regulatory Agreement (this standard agreement must be used absent extraordinary circumstances) including a list of documents and information to be returned with three signed copies of the Regulatory Agreement.⁴ All three Regulatory Agreements must have original signatures from the *chief elected official/Board of Selectmen* and the developer/project sponsor. DHCD reviews the Regulatory Agreements and supportive documentation and DHCD's Director (Tina Brooks) signs all three agreements and returns one fully executed Agreement to the developer and another to the municipality. This Regulatory Agreement represents DHCD's final written approval. The project sponsor/developer then has ten (10) days to record the agreement with the Registry of Deeds or the Land Court Registry District and send DHCD a copy of the recorded document with the recording stamp that shows book and page number. *Project construction cannot begin until the Regulatory Agreement has been executed and recorded.*

By entering into the LIP Regulatory Agreement the developer qualifies as a limited dividend organization for purposes of Chapter 40B.

The Regulatory Agreement sets forth the rights and responsibilities of all parties and the terms and conditions of the development. The developer asserts that he/she will construct and maintain the units in conformance with LIP requirements, accept a limited profit, and ensure affirmative fair marketing of the affordable units to eligible households. The developer further guarantees production of affordable units that includes the price of units and deed restriction in the case of homeownership and limits on rent increases if a rental project. The deed restriction limits the profit upon resale and requires that the units be sold to another buyer meeting affordability criteria. The Regulatory Agreement also provides for the monitoring of affordability throughout the prescribed term (to the greatest extent in perpetuity in Grafton).⁵

7. *Marketing/Lottery*

⁴ LIP has model regulatory agreements for both ownership and rental that can be accessed at the DHCD web site (www.mass.gov/dhcd). Any modifications to the standard agreements proposed by the developer or Town should be presented to DHCD, shown in redlining against the model document and submitted to DHCD for review and approval.

⁵ It should also be noted that DHCD has adopted the standard deed rider endorsed by Fannie Mae for use in all LIP homeownership projects.

The developer/project sponsor must also submit an affirmative fair marketing plan for the affordable units for DHCD review and approval. *The developer can hire a marketing agent to do this work or decide to hire the Housing Trust as Marketing Agent, with the Assistant Town Planner conducting the necessary tasks* (see guidelines included in Section I.C.4). The plan should be submitted at least 75 days before the scheduled date of the lottery. See Section III.A.3 under Local Action Units below for details.

8. *Resale Price Certificate/Deed Rider*

Before a homebuyer can close on an affordable unit, DHCD must issue a Resale Price Certificate and deed rider. To receive the certificate and deed rider DHCD must receive a copy of the unit's signed Purchase and Sale Agreement and a copy of the mortgage commitment letter that documents that the mortgage meets LIP requirements including:

- 30-year term,
- Fixed interest rate no more than two percentage points above the current MassHousing rate and with no more than two points,
- Caps monthly housing costs at 38% of monthly income for a household earning 80% of area median income,
- Must have a down payment of at least 3% of the purchase price that may include a 1.5% gift., and
- The loan can have no more than two (2) points.

These items should be sent to Elsa Campbell, Housing Specialist (phone: 617-573-1321; fax: 617-573-1330) **no less than two (2) weeks before the closing date**. DHCD will mail and fax the Certificate and a completed deed rider to the homebuyer's closing attorney and both of these documents must be recorded within ten days following the closing. A copy of both signed documents, with recording information, should be sent to DHCD as well to the Office of Legal Counsel (phone: 617-573-1508; fax: 617-573-1515). The closing attorneys should make sure that the unit deed makes a reference to the LIP deed rider. *The Assistant Town Planner should monitor this process to make sure these important steps are conducted in a timely manner.*

DHCD has adopted a model deed rider that has been approved by Fannie Mae for all LAU homeownership projects that requires affordability in perpetuity and must be used (see Appendix 4). The closing attorneys should make sure that the unit deed makes a reference to the LIP deed rider.

9. *Subsidized Housing Inventory Form*

It will be important to insure that all affordable units produced through the Grafton Affordable Housing Plan get counted as part of the Subsidized Housing Inventory (SHI). For each development that includes an affordable unit, one or many, the Town should submit a Subsidized Housing Inventory – Requesting New Units Form available on

DHCD's website – www.mass.gov/dhcd.⁶ A copy of the Request for New Units Form is attached as Appendix 2.

Documentation that supports the affordability of the units should be submitted with the form including:

- The zoning or permitting mechanism under which the housing development was authorized
- The copy of the permit for comprehensive permit projects as well as the date the application was filed with the ZBA, the date the permit was filed with the Town Clerk and whether an appeal was filed and the date it was resolved. **Note that the units can be counted under production goals when the permit approval is sent to the Town Clerk.**
- The units are subsidized by an eligible state or federal program including CPA if applicable.
- A long-term use restriction has been executed limiting occupancy to income eligible households for a specified period of time
- The units are subject to an Affirmative Fair Marketing Plan

The form should be submitted to DHCD's Policy Office. The Assistant Town Planner should take the lead on completing the form, compiling the necessary supportive documentation and sending it to DHCD. The Assistant Town Planner should also follow-up with DHCD to insure that units get included in the Town's Subsidized Housing Inventory.

10. Project Cost Accounting

Once all of the units in the development have been completed and sold, the project sponsor/developer must notify DHCD which will in turn request by letter an End of Project Cost Accounting certified by the project sponsor's accountant. DHCD's letter will provide the required format for this cost accounting. The completed End of Project Cost Accounting should be sent to DHCD (Kate Racer, Associate Director (phone: 617-573-1322; fax: 617-573-1330)).

11. Monitoring

The affordability restrictions for all units produced through the Local Initiatives Program will be monitored by DHCD, but it is the premise of LIP that the municipality and DHCD are working together to create affordable housing and fulfill the obligations of the affordability restrictions. Municipal responsibilities by type of project – rental or ownership – are outlined below.

Rental Projects

DHCD requires annual monitoring and certification that tenants continue to meet income and asset limits and the project has been maintained and operated in a safe and sanitary

⁶ Note that DHCD has a separate tracking format for rehabilitation project units funded by CDBG or HOME with typically 15-year affordability restrictions.

condition. Project sponsors of rental projects with affordable units should submit necessary information to the *Housing Trust*, which will then require the *Assistant Planner* to verify and pass on to DHCD. All leases must provide for a minimum of a 60-day notice to tenants of any non-renewal.

Typically, the annual recertification process would be staggered based on the tenant's move-in date, but if there are fewer units involved it may be better to undertake the recertification at a particular time each year, at least initially. Most of the procedures are outlined in HUD documents for Section 8 or public housing units but in general involve the following process:

- 1 A letter to the tenants outlining the required process and documentation.
1. An interview where the tenant signs a consent form that includes their income and asset information and enables the Town to verify.
2. Verification of assets and income to insure that the tenants still qualify for the affordable housing. It is important to note that tenants who become over income can stay up in the unit until they earn more than 140% of the maximum allowable limit (e.g. 112% of area median income if using the 80% income level).
3. Inspection of units to insure property is being properly maintained (this could be done by the Building Inspector or the Housing Authority's rehab specialist).
4. Submission of this information to DHCD (Attention: Elsa Campbell).
5. Contact with DHCD and the project sponsor/management agent if any of the tenants no longer qualify to take appropriate steps with respect to increasing rents/making the next affordable unit affordable, etc. in accordance with Regulatory Agreement provisions.
6. When turnover of the rental units takes place, the Housing Trust, through the Assistant Planner, (or Housing Authority if that makes sense) must review income and asset information from the project sponsor, including the Affirmative Fair Marketing Plan, to insure that tenants are qualified for occupancy.

Some communities are requiring the management agent of the development to do the annual information gathering/certification (Steps 1 through 3 above) and then provide it to the Town for review and subsequent submission to DHCD. This may be a good alternative.

Ownership Developments

The *Housing Trust*, through the *Assistant Planner*, will undertake annual monitoring and certification to DHCD that owners of LIP affordable units continue to reside in their units as required by the deed rider including that the units continue to serve as owners' primary residences, that no refinancing or sales have taken place without proper notification as outlined and recorded in the deed rider, and that the number of household members does not involve overcrowding. The process for the annual recertification is as follows:

- Send a letter to all owners asking them to sign an affidavit as to who is currently living in the house and that the house is occupied by the initial purchaser as its

primary residence (at least nine months a year). (There should be model documents available from DHCD or other municipalities.)

- Conduct research at the Registry of Deeds to insure that none of the units have been refinanced or sold without prior approval from the Town and DHCD (other Towns have found that this has happened despite the fact that the deed rider is recorded and would come up before any refinancing or resale).
- Send report of findings annually to DHCD (Attention: Elsa Campbell).

Also Towns are jointly responsible with DHCD for reviewing and approving refinancings and resales of ownership units as they come up. Under the deed rider, both DHCD and the Town are to be notified when a LIP owner intends to refinance or resell. If a Town elects to take the lead on a resale or refinance, DHCD will set the resale price or allowable refinance amount. If the Town is not properly staffed to handle this role, they can request that DHCD take the lead, working with the regional non-profit housing organization, SMOC in the case of Grafton. If the process will be handled by the Town, the *Housing Trust*, through the *Assistant Planner*, should undertake the necessary marketing and lottery to insure that the unit is passed on to a qualified purchaser based on the requirements of the deed rider and LIP. This process is basically as follows:

- Insure that there is an Affirmative Fair Marketing Plan for resales that is approved by DHCD and if not prepare one (*Assistant Planner* to prepare and *Housing Trust* to approve).
- Calculate the resale price based on the formula established in the deed rider.
- The current homeowner (seller) is responsible for paying a fee to the *Housing Trust* of 2½ percent of the affordable purchase price for services conducted by the *Assistant Planner* in marketing the unit, determining eligibility under LIP and holding a lottery.
- Work with the seller, purchaser and DHCD to have all necessary documentation in place and to close on the unit – oversight from the *Assistant Planner*.

It should also be noted that the list for any lottery is good for one year, but income and asset information must be refreshed prior to the time of closing if it was submitted more than six (6) months prior to occupancy (?check with DHCD to make sure the 6-month period is still in effect). The *Housing Trust* should maintain a list of those who have been pre-qualified in the past and who can be notified of any homeownership units become available as well as the prescribed application and selection process. DHCD and Southern Middlesex Opportunity Council (SMOC – the regional non-profit housing organization) also maintain lists of those who have been pre-approved to participate in past lotteries.

B. Summary of Town Responsibilities

The responsibilities of the *Grafton Board of Selectmen* in the LIP Comprehensive Permit process include:

- Sign LIP 40B application and submit jointly with developer to DHCD.

- Provide letter of support for project financing applications if LIP projects require additional subsidies. (Consider use of CPA funding.)
- Sign Regulatory Agreement.

Responsibilities of the *Grafton Housing Trust/Affordable Housing Committee* include:

- Determine community preference criteria.
- Hold meetings with developers proposing “friendly” 40B’s to guide project development towards meeting local needs and priorities in line with LIP policies/Housing Guidelines.
- Provide a letter of support for the LIP application.
- Provide letters of support for any necessary public financing including the possibility of advocating for Community Preservation funds.
- Review comprehensive permit application prior to submission to the ZBA.
- Provide support of comp permit application by attending ZBA hearing(s) and providing a letter of support.
- Be responsible for project monitoring functions.

The *Assistant Planner*, with oversight from the Town Planner, will be responsible for insuring that the following activities are completed based on LIP requirements:

- Draft letters of support for the Board of Selectmen and Housing Trust as part of the LIP application and other potential funding applications.
- Prepare and implement affirmative fair marketing plan if the Housing Trust is hired by the developer/project sponsor to undertake this work.
- Monitor progress of securing Resale Price Certificate and deed riders.
- Prepare Subsidized Housing Inventory New Unit Request Form with supporting documentation and follow-up with DHCD to insure inclusion of the units in the SHI.
- Undertake required tasks to monitor the affordability of affordable units.

III. LIP Local Action Units

In addition to being used for “friendly” 40B projects discussed above in Section II, LIP can be used for counting those affordable units as part of a Town’s Subsidized Housing Inventory that are being developed through some local action such as:

- A zoning provision (i.e., inclusionary zoning, flexible zoning with specified density bonuses for affordable housing),
- A condition of a variance or special permit,
- Substantial financial assistance from funds raised, appropriated or administered by the Town, and
- Provision of land or buildings that are owned or acquired by the town and conveyed at a substantial discount from their fair market value.

In order to be counted as part of the Subsidized Housing Inventory the units must meet the following criteria:

- A result of municipal action or approval,
- Sold or rented based on procedures articulated in an affirmative fair marketing and lottery plan approved by DHCD,
- Sales prices and rents must be affordable to households earning at or below 80% of area median income and spending no more than 30% of their income on housing-related expenses, and
- Long-term affordability is enforced through affordability restrictions, approved by DHCD.

Additionally, documentation must be submitted to DHCD for each affordable unit that includes a Subsidized Housing Inventory New Units Request Form.

A. Approval Process

1. Meet with Developer/Project Sponsor

The *Housing Trust* should meet with the developer to discuss requirements for insuring that the unit meets the requirements for inclusion in the Subsidized Housing Inventory (as Local Action Units) through the state's Local Initiatives Program (LIP). The *Assistant Planner* should calculate the purchase prices or maximum rents of the affordable units prior to this meeting and explain the calculations to the developer based on the DHCD formula (see Section I.2 above) for more information on calculations.

At this meeting the *Housing Trust* should outline all of the LIP requirements and specify what the developer must do to insure that the units can be counted as part of the SHI. The responsibilities of the developer include:

- Take the lead in preparing the Local Action Units application jointly with the *Housing Trust*.
- Financial support for costs associated with preparing an affirmative fair housing marketing and buyer selection plan that is usually part of project costs.
- Execution of a regulatory agreement between the Town, developer and DHCD that must be recorded at the Registry of Deeds or Land Court Registry District.

The process for developing and securing state approval for Local Action Units (LAU's) is as follows:

1. Contact DHCD

The *Housing Trust*, with support from the *Town Planner and/or Assistant Town Planner*, should discuss the project/units with DHCD LIP staff prior to submitting the LAU application. LIP staff should have an opportunity to identify any areas of potential concern and thus avoid possible problems at a later time when there might be fewer options for rectifying.

2. Prepare and Submit Application

The *Housing Trust, through the Assistant Planner*, should work with the project sponsor to prepare the LIP Local Action Units application (the form is included in DHCD's website at www.mass.gov/dhcd). DHCD anticipates processing applications within 60 days. There is no application fee.

• 3. *Affirmative Fair Marketing/Lottery Plan*

The *Grafton Housing Trust*, or other marketing agent identified by the developer/project sponsor must prepare an Affirmative Fair Marketing Plan in conformance with all applicable fair housing laws.

- Marketing plan must provide outreach to area minority communities to notify them about availability of the unit(s).
- Local preference is limited to those have a connection to the municipality as defined by the Town, through its Housing Trust/Affordable Housing Committee, with a maximum of 70% of the affordable units. Durational residency requirements are not allowed.
- Marketing materials must be available/application process open for a period of at least 60 days and advertisements must run at least twice.
- Lottery must be held if there are more qualified applicants than affordable units available.
- See Section I.C.4 for more requirements.

The goal of the Plan is to achieve a percentage of minority occupancy equal to the greater of that for the locality or the HUD area in which the project is located (at least 13.5% for Grafton). The Plan must identify local preference criteria and numbers, if any, as well as articulate the buyer/tenant selection process. The Plan must be approved by the LIP staff at DHCD (contact Erin Bettez/617-573-1309; email at erin.bettez@state.ma.us). Prior to the submission to DHCD, the *Assistant Planner* should forward a copy to the developer for their approval.

Outreach

The Plan needs to describe all methods that the units will be effectively marketed including:

- *Publications*
Provide a list of where ads will appear and in what frequency (must run at least twice). Should include general circulation papers and those that serve primarily minority readers (e.g., Bay State Banner, El Mundo, Sam Pan).
- *Other Media*
Any other media that might be used such as local TV/cable or radio.
- *Posting of Flyers*
Describe where flyers will be posted including Town offices, Town library, Town Council on Aging, area housing authorities, local fair housing commissions, places of worship, local organizations, area banks, local and regional organizations serving minority populations and/or low- and moderate-income populations, regional housing non-profits, etc.

- *Use of Websites*
Each LIP project must be posted on Citizens' Housing and Planning Association's (CHAPA's) website (www.chapa.org/housing_lotteries.htm) and the Massachusetts Affordable Housing Alliance (MAHA) website (notices sent to: chassan@mahahome.org). Usually the development is included on the developer's website as well. Notices of the development should also be included on the Town's website and on other available local websites such as the Housing Authority or Council on Aging if available. Under most circumstances the ad included in the newspapers will appear on each paper's website as well. Handicapped-accessible units should be posted on the Mass Accessible Housing Registry sponsored by CHAPA.
- *Where applications will be made available*
Outreach materials should include where potential applicants can pick-up applications including the Town Hall, Library, Council on Aging, Housing Authority or other central location. At least one place, such as the library, should be open in the evenings.
- *Information Session*
There should be at least one session for potential applicants to learn about the project including specific requirements, the application and selection process, and gets answers to questions. Local lenders should also be included to provide information on available financing and mortgage requirements. The Session should be scheduled at a central location, usually the Town Hall or library, in the early evening or on a weekend when most potential applicants are not working. Notices of the Info Session should be included in all of the outreach materials including the first round of advertisements.
- *Open House*
It may also be useful to have an Open House to enable potential applicants to see a model unit. Notices of the Open House can be placed on websites and the second round of advertisements.
- *Contact Information*
All outreach materials should include a telephone number and email address where potential applicants can get information on the affordable units and request a copy of the Purchaser Application.

In addition to details on the outreach process, the Plan articulates the buyer selection process which will be coordinated by the *Housing Trust, through the Assistant Planner*, including:

Review of Eligibility

The Marketing Agent/*Housing Trust, through the Assistant Planner*, will review all applications and determine which applicants meet all of the eligibility requirements and qualify to participate in the lottery. Each of these pre-approved applicants will be assigned a registration number and will be invited by letter to attend the lottery. This letter will be sent via certified mail within 30 days following the application deadline and will provide more details on the lottery process including time, date and place as well as the applicant's registration number that will be used in the lottery as opposed to names.

Pre-approved applicants will be encouraged but not required to attend the lottery. This letter will also emphasize that these applicants must continue to remain eligible at the time of the lottery, at the time the Purchase and Sale Agreement (lease) is signed, and at the time of closing (occupancy) on the unit.

A summary of LIP income and assets requirements is included in Appendix 3.

Those applicants who do not meet the eligibility requirements and do not qualify to participate in the lottery will also be informed by letter within 30 days following the application deadline.

Lottery

If the percentage of minority applicants who qualify for inclusion in the community preference pool is less than the percentage of minorities in the surrounding HUD-defined area, it will be necessary to adjust the local preference pool. This is done by holding a *preliminary lottery comprised of all pre-approved minority applicants* who did not qualify for the local preference pool and rank the applicants in the order of the draw. The minority applicants will then be added to the local preference pool in the order of their ranking (the order of the draw) until the percentage of minority applicants in the community preference pool is equal to the percentage of minorities in the surrounding HUD-defined area (13.5% for Grafton) to the greatest extent possible. The remaining minority applicants, if any, will remain in the open combined pool. Minority applicants should be identified in accordance with the regulatory classifications established by HUD, which are: Native American or Alaskan Native; Asian or Pacific Islander; African-American; Hispanic/Latino; or Cape Verdean.

The lottery will provide a *special preference for larger households* requiring the total number of bedrooms based on these criteria:

- There is at least one but not more than two occupants per bedroom.
- A husband and wife, or those in a similar living arrangement, will be required to share a bedroom unless medical documentation indicates that a serious adverse action on the mental or physical health of one member of the couple would be a consequence of this sharing. Other household members may share but will not be required to share a bedroom.

Second preference will be given to those households requiring the number of bedrooms minus one, based on the above criteria. Lottery drawings will result in each applicant being given a ranking among other applicants with households receiving preference for units based on the above criteria.

Ballots with the registration number for qualifying applicants will be placed in all pools for which the individual applicants qualify (for example, an applicant meeting community preference criteria will also be included in the combined open pool of all applicants). Pre-approved applicants who have a connection to the town of Grafton, those meeting community preference eligibility criteria, will receive preference for up to

70% of the affordable units. The remaining affordable units will be available to the universe of all pre-approved applicants.

Envelopes will first be drawn from the community preference pool, one after the other, until all envelopes have been drawn, the registration numbers announced after each draw and recorded (household size also recorded) in the order of the draw. The same process will occur for the combined open pool with each registration number and household size recorded in the sequence of the draw. Those larger households requiring the total number of bedrooms will receive priority such that larger households will be awarded a unit over smaller ones, once again in the order of the draw.

If a physically disabled applicant is chosen through the lottery, the handicapped adaptable or accessible unit will be made available.

Ownership Projects – Those top applicants selected in the community preference category (the number equal to 70% of the units) with largest number of household members and top applicants selected in the open pool (equal to remaining number of units), also with largest/appropriate numbers of household members, will then be invited to attend a loan application workshop, or be spoken to verbally, and given verbal and written instructions on how to proceed to purchase the affordable units. These applicants will be required to schedule an appointment with the lender, provide updated documentation on income and assets and other eligibility criteria as needed, and apply for a mortgage. Mortgage loans for the affordable units must meet the following LIP criteria:

- Fixed rate throughout the required 30-year term of the mortgage.
- Current fair market interest rate of no more than two percentage points above the current MassHousing rate (www.masshousing.com or 617/854-1000)
- No more than two points.
- Down payment of at least 3%, half of which must come from the buyer's own funds.
- Caps monthly housing costs at 38% of monthly income for a household earning at 80% of area median income.

It may be necessary to contact alternates in the order of the draw if those initially selected are determined to be ineligible because further documentation indicates that they do not meet project requirements, are no longer interested in purchasing, cannot secure mortgage financing, or do not meet the required deadlines for signing a Purchase and Sale Agreement, securing mortgage approval and closing on the mortgage (this lottery list of alternates can be used for a period of one year). The first applicant to sign the Purchase and Sale Agreement will be given a preference as to which unit he or she wishes to purchase, and the second to sign getting the next choice, etc. until all affordable units are eventually sold.

After the selected applicants receive bank approval for the mortgage and this documentation has been approved by DHCD, they will be further instructed to schedule an appointment with the developer to make a deposit (usually \$500 to \$1,000) and sign a

Purchase and Sale Agreement. The instructions will also include reasonable timeframes for completing these activities in order to purchase an affordable condo. Once again, if these applicants are unsuccessful in confirming eligibility, securing financing and meeting deadlines, they risk forfeiting their opportunity to purchase one of the affordable condos and the next alternate in the sequence of the lottery draw with the largest number of household members will be contacted.

Rental Projects – Those top applicants selected in the community preference category (the number equal to 70% of the units) with largest number of household members and top applicants selected in the open pool (equal to remaining number of units), also with largest/appropriate numbers of household members, will then be contacted by the Marketing Agent/*Housing Trust through the Assistant Planner*, regarding how to proceed towards occupying the affordable units. These applicants will be required to provide updated documentation on income and assets and other eligibility criteria as needed.

4. *Regulatory Agreement*

The developer/project sponsor, Town (chief elected official) and DHCD need to execute a regulatory agreement that enforces the affordability restrictions in perpetuity⁷ for all LAU projects involving new construction. DHCD has model regulatory agreements that should be used, one for rental and another for ownership, and any modifications from these model documents must be approved by DHCD. Once the agreement is executed, it must be recorded by the developer/project sponsor at the Registry of Deeds or filed with the Registry District of Land Court. The *Assistant Town Planner* should follow-up to insure that this has been completed.

5. *Implement Affirmative Fair Marketing Plan*

The designated marketing agent implements the affirmative fair marketing plan.

6. *Resale Price Certificate/Deed Rider (Homeownership)*

Before a homebuyer can close on an affordable unit, DHCD must issue a Resale Price Certificate and deed rider. To receive the certificate and deed rider DHCD must receive a copy of the unit's signed Purchase and Sale Agreement and a copy of the mortgage commitment letter that indicates the mortgage meets LIP requirements including the fact that the interest rate is locked until closing. These items should be sent to Elsa Campbell, Housing Specialist (phone: 617-573-1321; fax: 617-573-1330) no less than two weeks before the closing date. DHCD will mail and fax the Certificate and a completed deed rider to the homebuyer's closing attorney and both of these documents must be recorded within ten days of the closing. A copy of both signed documents, with recording information, should be sent to DHCD as well to Office of Legal Counsel (phone: 617-573-1508; fax: 617-573-1515).

DHCD has adopted a model deed rider that has been approved by Fannie Mae for all LAU homeownership projects that requires affordability in perpetuity and must be used (see Appendix 4). The closing attorneys should make sure that the unit deed makes a

⁷ A shorter term of affordability will be approved only upon a showing that a longer term is infeasible or not in the public interest.

reference to the LIP deed rider. It should be noted that once the deed rider is executed, the purchaser must request in writing approval from DHCD for any extraordinary capital improvements (approved improvements can be factored into the resale price) or refinancing.

7. *Subsidized Housing Inventory Form*

It will be important to also insure that all affordable units produced through the Grafton Affordable Housing Plan get counted as part of the Subsidized Housing Inventory (SHI). For each development that includes an affordable unit, one or many, the Town should submit a Subsidized Housing Inventory – Requesting New Units Form available on DHCD’s website – www.mass.gov/dhcd. A copy is attached as Appendix 2. Documentation that supports the affordability of the units should be submitted with the form including:

- The zoning or permitting mechanism under which the housing development was authorized.
- The units are subsidized by an eligible local, state or federal program.
- A long-term use restriction has been executed limiting occupancy to income eligible households for a specified period of time.
- The units are subject to an Affirmative Fair Marketing Plan.

The form should be submitted to DHCD’s Policy Office.

Note that units can be counted under production goals when the building permits are pulled on the affordable units.

8. *Monitoring*

The affordability restrictions for all units produced through the Local Initiative Program will be monitored by DHCD, but it is the premise of LIP that the municipality and DHCD are working together to create affordable housing and fulfill the obligations of the affordability restrictions. Municipal responsibilities include:

Rental Projects

Annual monitoring and certification to DHCD that tenants continue to meet income and asset limits and the project has been maintained and operated in a safe and sanitary condition.

Ownership Developments

Annual monitoring and certification to DHCD that Local Action Units continue to serve as owners’ principal residences and those that have been resold during the year have been resold in compliance with LIP requirements.

New LIP requirements indicate that each municipality should have a resale plan in place for LIP units. Consequently, the Town needs to create and maintain a list of income-eligible potential buyers. This type of list could be established by pooling those who have applied but not selected to purchase units in a local affordable housing development(s), but

the list becomes obsolete after 24 months of the prior lottery. The municipality may then create a “Ready Buyer List” through the use of a lottery process after conducting affirmative marketing. This process must receive prior approval by DHCD.

When an eligible buyer is not located within the 90-day marketing period by the monitoring agent, the monitoring agent or municipality may purchase the property. After an additional 30 days, if neither the monitoring agent nor Town purchases the property, the home may be sold without regard to the income level of the buyer. If a LIP unit is conveyed to an income ineligible buyer, the price still may not exceed the maximum resale price as dictated by the deed rider and a deed rider must still be executed and recorded. If more than one ineligible purchaser is found, first preference must be given to households earning between 80% and 120% of area median income.

See Section II.A.11 for more details on monitoring responsibilities.

B. Summary of Town Responsibilities

The responsibilities of the *Grafton Board of Selectmen* in the LIP Comprehensive Permit process include:

- Sign and submit LAU application.
- Sign Regulatory Agreement.

Responsibilities of the *Grafton Housing Trust/Affordable Housing Committee* include:

- Meet with developer to insure the developer understands LIP Local Action Unit requirements.
- Discuss project concept with DHCD staff.
- Sign LIP Local Action Unit application with developer.
- Project monitoring.

The *Assistant Planner*, with oversight from the Town Planner, will be responsible for insuring that the following activities are completed based on LIP requirements:

- Calculate purchase prices or rents based on LIP requirements and present to the Housing Trust and developer.
- Help prepare LIP LAU application with developer.
- Prepare and implement affirmative fair marketing plan. Submit draft plan to developer for approval and then to DHCD prior to marketing.
- Follow-up to insure that the deed riders (ownership) or Regulatory Agreement (rental units) has been executed and recorded.
- Complete SHI New Unit Request Form and compile required supporting documentation.
- Project monitoring including the preparation of a “Ready Buyers List”.

It should be noted that there are a number of special requirements for accessory apartments and Continuing Care Retirement Communities in the LIP guidelines.

Appendix 1

2008 TARGETED HUD INCOME LEVELS FOR AFFORDABLE HOUSING IN THE WORCESTER PMSA

# Persons in Household	30% of Median Income	50% of Median Income	80% of Median Income
1	\$16,150	\$26,900	\$43,050
2	18,450	30,750	49,200
3	20,750	34,600	55,350
4	23,050	38,450	61,500
5	24,900	41,550	66,400
6	26,750	44,600	71,350
7	28,600	47,700	76,250
8	30,450	50,750	81,200

2007 Median Household Income for the Worcester PMSA = \$76,900

Appendix 2
Subsidized Housing Inventory – Requesting New Units Form

Name of Development _____

Address _____

Total Acreage _____

Subsidizing Agency – List All (i.e., MassHousing, DHCD) _____

Subsidy Program – List All (i.e., Housing Starts, NEF, LIP, HOME) _____

	Rental	Ownership
Total Units in Development		
Total Affordable Units		
Restricted at 80% of AMI		
Restricted at 50% of AMI		
Restricted at 30% of AMI		

Date of Building Permit (Provide Copy) _____

For Comprehensive Permit Projects Only (Provide Copy of Permit)

- Date comprehensive permit application was filed with the ZBA:

- Date comprehensive permit was filed with the town clerk:

- Was an appeal filed? YES or NO If yes, date all appeals were resolved:

Documentation* evidencing the following must be submitted with this form:

1. The zoning or permitting mechanism under which the housing development is authorized
2. The units are subsidized by an eligible state or federal program
3. A long term use restriction has been executed limiting occupancy to income eligible households for a specified period of time (at least thirty years or longer for newly created affordable units, and at least fifteen years for rehabilitated units)
4. The units are subject to an Affirmative Fair Marketing Plan

**Submit form and documentation to: DHCD Policy Office
Attn: Subsidized Housing Inventory
100 Cambridge Street, Suite 300
Boston, MA 02114**

Submitted by: Name & Title:

Mailing

Address:

Phone

and

email:

Appendix 3

LIP Income and Assets Requirements

Annual Income

Annual gross income means all amounts, monetary or not, which go to, or on behalf of, the family head or spouse or to any other family member received from a source outside the family during the 12-month period following application.

Annual income includes, but is not limited to:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as

deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family;
- The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount;
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
- All regular pay, special pay and allowances of a member of the Armed Forces;
- Income derived from assets to which any member of the family has access.

Annual income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years;
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- Income of a live-in aide, as defined in Sec. 5.403;
- The full amount of student financial assistance paid directly to the student or to the educational institution;
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- Temporary, nonrecurring or sporadic income (including gifts);
- Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;

- Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

Assets

The value of necessary items of personal property, such as furniture or automobiles shall be excluded. Determination of assets shall be based upon a full and fair present cash value of the asset at the time of application to the program. If a potential purchaser divests himself or herself of an asset for less than full and fair present cash value of the asset within one year prior to application, the full and fair cash value of the asset at the time of its disposition must be declared and shall be included for purposes of calculating eligibility.

Household Assets include the following:

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.
2. Revocable trusts: The cash value of any revocable trust available to the applicant.
3. Equity in rental property or other capital investments: The current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).
4. Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts: The value of stocks and other assets vary from one day to another and should be determined within a reasonable time in advance of the applicant's submission of an application to participate in the subject housing program.
5. Individual retirement, 401K, and Keogh accounts: When the holder has access to the funds, even though a penalty may be assessed. If the applicant is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count withdrawals as income.)
6. Retirement and pension funds.
 - a. While the person is employed: Amounts the applicant can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs.

- b. At retirement, termination of employment, or withdrawal: Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below. If benefits will be received in a lump sum, include the lump-sum receipt in net household assets. If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.

If the applicant initially receives a lump-sum benefit followed by periodic payments, count the lump-sum benefit as an asset as provided in the example below and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph assumes that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.

- 7. Cash value of life insurance policies available to the applicant before death (e.g., the surrender value of a whole life policy or a universal life policy): It would not include a value for term insurance, which has no cash value to the applicant before death.
- 8. Personal property held as an investment: Gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.
- 9. Lump-sum receipts or one-time receipts: Inheritances, capital gains, one-time lottery winnings, victim's restitution, settlements on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.
- 10. A mortgage or deed of trust held by an applicant: Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset. This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)

To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification. To count the imputed income for this asset, determine the asset value at the end of the 12-month period following the certification.

- 11. A life estate: A life estate is an interest in real property which entitles the life tenant to benefit from the property until his or her death. Usually, the life tenant is entitled

to the use of a house for life and may be entitled to sell his or her interest. This right is of value to the life tenant, but it is rarely sold on an open market. (Purchasers of real property would typically not be tempted by such an uncertain term of ownership.)

The value of an applicant's life estate is included when calculating his or her assets based upon the Internal Revenue Service's latest guidance to determine the value of life estates (see Internal Revenue Service Publication 1457, "Actuarial Values, Book Aleph," (7-1999).

Household Assets DO NOT include the following:

1. Personal property (clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for persons with disabilities).
2. Interests in Indian trust land.
3. Term life insurance policies (i.e., where there is no cash value).
4. Equity in the cooperative unit in which the applicant lives.
5. Assets that are part of an active business: "Business" does NOT include rental of properties that are held as investments unless such properties are the applicant's main occupation.

Assets that are NOT effectively owned by the applicant: Assets are not effectively owned when they are held in an individual's name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not the applicant, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

6.



Equal Housing Opportunity

Appendix 4
Local Initiative Program (LIP) Deed Rider
For Homeownership Projects

LOCAL INITIATIVE PROGRAM
AFFORDABLE HOUSING DEED RIDER

This made part of that certain deed (the "Deed") of certain property (the "Property") from Name of Developer?, LLC, a Massachusetts limited partnership ("Grantor") to _____ ("Owner") dated _____, 200__. The Property is located in the Town of Grafton, Worcester County, Massachusetts (the "Municipality").

RECITALS

WHEREAS, the Grantor is conveying that certain real property more particularly described in the Deed to the Owner at a consideration which is less than the fair market value of the Property; and

WHEREAS, the Property is part of a project which was: [check all that are applicable]

- (i) granted a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from the Board of Appeals of the Municipality or the Housing Appeals Committee and recorded/filed with the _____ County Registry of Deeds/Registry District of Land Court (the "Registry") in Book _____, Page _____/Document No. _____ (the "Comprehensive Permit");

- (ii) subject to a Regulatory Agreement among _____ (the "Developer"), [] Massachusetts Housing Finance Agency

(“MassHousing”), [] the Massachusetts Department of Housing and Community Development] (“DHCD”) [] the Municipality; and [] _____, dated _____ and recorded/filed with the Registry in Book _____, Page ____/as Document No. _____ (the “Regulatory Agreement”); and

- (iii) subsidized by the federal or state government under the Local Initiative Program, a program to assist construction of low or moderate income housing the “Program”); and

WHEREAS, pursuant to the Program, eligible purchasers such as the Owner are given the opportunity to purchase residential property at less than its fair market value if the purchaser agrees to certain use and transfer restrictions, including an agreement to occupy the property as a principal residence and to convey the property for an amount not greater than a maximum resale price, all as more fully provided herein; and

WHEREAS, DHCD (singly, or if more than one entity is listed, collectively, the “Monitoring Agent”) is obligated by the Program or has been retained to monitor compliance with and to enforce the terms of this Deed Rider, and eligible purchasers such as the Owner may be required to pay to the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner’s conveyance of the Property, as set out in the Regulatory Agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Municipality serve the public’s interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value, the Grantor and the Owner, including his/her/their heirs, successors and assigns, hereby agree that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of, and shall be enforceable by, the Municipality and the Monitoring Agent, and, if DHCD is a party to the Regulatory Agreement and is not the Monitoring Agent, by DHCD.

1. Definitions. In this Deed Rider, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund means a fund established by the Municipality for the purpose of reducing the cost of housing for Eligible Purchasers or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for Eligible Purchasers or, if no such fund exists, a fund established by the Municipality pursuant to Massachusetts General Laws Chapter 44 Section 53A, et seq.

Applicable Foreclosure Price shall have the meaning set forth in Section 7(b) hereof.

Appropriate Size Household means a household containing a number of members equal to the number of bedrooms in the Property plus one.

Approved Capital Improvements means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner; provided that the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

Area means the Primary Metropolitan Statistical Area or non-metropolitan area that includes the Municipality, as determined by HUD, which in this case is

_____.

Area Median Income means the most recently published median income for the Area adjusted for household size as determined by HUD. If HUD discontinues publication of Area Median Income, the income statistics used by MassHousing for its low and moderate income housing programs shall apply.

Base Income Number means the Area Median Income for a four (4)-person household.

Chief Executive Officer shall mean the Mayor in a city or the Board of Selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

Closing shall have the meaning set forth in Section 5(b) hereof.

Compliance Certificate shall have the meaning set forth in Section 6(a) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual or household earning no more than eighty percent (80%) of Area Median Income (or, if checked [] _____ percent (___%) of Area Median Income, as required by the Program) and owning assets not in excess of the limit set forth in the Program Guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Property as his, her or their principal residence and must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. An Eligible Purchaser shall be a First-Time Homebuyer if required by the Program and as specified in the Regulatory Agreement.

First-Time Homebuyer means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an Eligible Purchaser, except that (i) any individual who is a displaced homemaker (as may be defined by DHCD) (ii)

and any individual age 55 or over (applying for age 55 or over housing) shall not be excluded from consideration as a First-Time Homebuyer under this definition on the basis that the individual, owned a home or had an ownership interest in a principal residence at any time during the three (3)-year period.

Foreclosure Notice shall have the meaning set forth in Section 7(a) hereof.

HUD means the United States Department of Housing and Urban Development.

Ineligible Purchaser means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

Maximum Resale Price means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning seventy percent (70%) of the Area Median Income (or, if checked [] _____ percent (___%) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program); and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price.

Monitoring Services Agreement means any Monitoring Services Agreement for monitoring and enforcement of this Deed Rider among some or all of the Developer, the Monitoring Agent, the Municipality, MassHousing and DHCD.

Mortgage Satisfaction Amount shall have the meaning set forth in Section 7(b) hereof.

Mortgagee shall have the meaning set forth in Section 7(a) hereof.

Program Guidelines means the regulations and/or guidelines issued for the applicable Program and controlling its operations, as amended from time to time.

Resale Fee means a fee of N/A % [no more than two and one-half percent (2.5%)] of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Deed Rider, including the supervision of the resale process.

Resale Price Certificate means the certificate issued as may be specified in the Regulatory Agreement and recorded with the first deed of the Property from the

Developer, or the subsequent certificate (if any) issued as may be specified in the Regulatory Agreement, which sets forth the Resale Price Multiplier to be applied on the Owner's sale of the Property, as provided herein, for so long as the restrictions set forth herein continue. In the absence of contrary specification in the Regulatory Agreement the Monitoring Agent shall issue the certificate.

Resale Price Multiplier means the number calculated by dividing the Property's initial sale price by the Base Income Number at the time of the initial sale from the Developer to the first Eligible Purchaser. The Resale Price Multiplier will be multiplied by the Base Income Number at the time of the Owner's resale of the Property to determine the Maximum Resale Price on such conveyance subject to adjustment for the Resale Fee, marketing expenses and Approved Capital Improvements. In the event that the purchase price paid for the Property by the Owner includes such an adjustment a new Resale Price Multiplier will be recalculated by the Monitoring Agent by dividing the purchase price so paid by the Base Income Number at the time of such purchase, and a new Resale Price Certificate will be issued and recorded reflecting the new Resale Price Multiplier. A Resale Price Multiplier of _____ is hereby assigned to the Property.

A.

Term means in perpetuity, unless earlier terminated by (i) the termination of the term of affordability set forth in the Regulatory Agreement or Comprehensive Permit, whichever is longer; or (ii) the recording of a Compliance Certificate and a new Deed Rider executed by the purchaser in form and substance substantially identical to this Deed Rider establishing a new term.

2. Owner-Occupancy/Principal Residence. The Property shall be occupied and used by the Owner's household exclusively as his, her or their principal residence. Any use of the Property or activity thereon which is inconsistent with such exclusive residential use is expressly prohibited.

3. Restrictions Against Leasing, Refinancing and Junior Encumbrances. The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent; provided that this provision shall not apply to a first mortgage granted on the date hereof in connection with this conveyance from Grantor to Owner securing indebtedness not greater than one hundred percent (100%) of the purchase price. Any rents, profits, or proceeds from any transaction described in the preceding sentence which transaction has not received the requisite written consent of the Monitoring Agent shall be paid upon demand by Owner to the Municipality for deposit to its Affordable Housing Fund. The Monitoring Agent or Municipality may institute proceedings to recover such rents, profits or proceeds, and costs of collection, including attorneys' fees. Upon recovery, after payment of costs, the balance shall be paid to the Municipality for deposit to its Affordable Housing Fund. In the event that the Monitoring Agent consents for good cause to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction, which exceed the actual carrying costs of

the Property as determined by the Monitoring Agent, shall be paid to the Municipality for deposit to its Affordable Housing Fund.

4. Options to Purchase. (a) When the Owner or any successor in title to the Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Owner shall notify the Monitoring Agent and the Municipality in writing of the Owner's intention to so convey the Property (the "Conveyance Notice"). Upon receipt of the Conveyance Notice, the Monitoring Agent shall (i) calculate the Maximum Resale Price which the Owner may receive on the sale of the Property based upon the Base Income Number in effect as of the date of the Conveyance Notice and the Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate together with permissible adjustments for the Resale Fee, marketing expenses and Approved Capital Improvements (as discounted), and (ii) promptly begin marketing efforts. The Owner shall fully cooperate with the Monitoring Agent's efforts to locate an Eligible Purchaser and, if so requested by the Monitoring Agent, shall hire a broker selected by the Monitoring Agent to assist in locating an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price after entering a purchase and sale agreement. Pursuant to such agreement, sale to the Eligible Purchaser at the Maximum Resale Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

(c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Deed Rider and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and restrictions contained herein; provided that the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Deed Rider or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

5. Delivery of Deed. (a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Deed Rider, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.

(c) To enable Owner to make conveyance as herein provided, Owner may, if Owner so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the selected purchaser to take title, nor anything else in this Deed Rider shall be deemed to waive, impair or otherwise affect the priority of the rights herein over matters appearing of record, or occurring, at any time after the recording of this Deed Rider, all such matters so appearing or occurring being subject and subordinate in all events to the rights herein.

(d) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the selected purchaser.

(e) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date of

the execution of the purchase and sale agreement, reasonable wear and tear only excepted.

(f) If Owner shall be unable to give title or to make conveyance as above required, or if any change of condition in the Property not included in the above exception shall occur, then Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition herein required. The Owner shall use best efforts to remove any such defects in the title, whether voluntary or involuntary, and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Owner that such defect has been cured or that the Property has been so restored. The selected purchaser shall have the election, at either the original or any extended time for performance, to accept such title as the Owner can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which case the Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Owner shall, unless the Owner has previously restored the Property to its former condition, either:

(A) pay over or assign to the selected purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Owner for any partial restoration, or

(B) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the selected purchaser a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Owner for any partial restoration.

6. Resale and Transfer Restrictions. (a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Owner, or the Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the selected purchaser of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and unless a certificate (the "Compliance Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Compliance Certificate refers to the Property, the Owner, the selected purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and unless there is also recorded a new Deed

Rider executed by the selected purchaser, which new Deed Rider is identical in form and substance to this Deed Rider.

(b) The Owner, any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate as conclusive evidence that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and may record such Compliance Certificate in connection with the conveyance of the Property.

(c) Within ten (10) days of the closing of the conveyance of the Property from the Owner to the selected purchaser, the Owner shall deliver to the Monitoring Agent a copy of the Deed of the Property, including the deed rider, together with recording information. Failure of the Owner, or Owner's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance or the enforceability of the restrictions herein.

7. Survival of Restrictions Upon Exercise of Remedies by Mortgagees. (a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Monitoring Agent, the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Monitoring Agent and the Municipality as set forth in this Deed Rider, and to the senior Mortgagee(s) as set forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Deed Rider.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens,

improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Monitoring Agent, the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over the foreclosing Mortgagee's mortgage, and further subject to a Deed Rider, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be

conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the Mortgagee that has so acquired the Property agrees to annex to the deed and to record with the deed, except that (i) during the term of ownership of the Property by such Mortgagee the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such Mortgagee at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to the Mortgagee or the enforceability of the restrictions herein.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the foreclosing Mortgagee agrees to annex to the deed and to record with the deed, except that (i) if the purchaser at such foreclosure sale or assignee of a deed in lieu of foreclosure is an Ineligible Purchaser, then during the term of ownership of the Property by such Ineligible Purchaser, the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such third party purchaser at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to such third party purchaser or the enforceability of the restrictions herein.

(g) Upon satisfaction of the requirements contained in this Section 7, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as provided in Section 6(b) hereof as conclusive evidence that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider.

(h) The Owner understands and agrees that nothing in this Deed Rider or the Regulatory Agreement (i) in any way constitutes a promise or guarantee by MassHousing, DHCD, the Municipality or the Monitoring Agent that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) If a Foreclosure Notice is delivered after the delivery of a Conveyance Notice as provided in Section 4(a) hereof, the procedures set forth in this Section 7 shall supersede the provisions of Section 4 hereof.

8. **Covenants to Run With the Property.** (a) This Deed Rider, including all restrictions, rights and covenants contained herein, is an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws,

having the benefit of Section 32 of such Chapter 184, and is enforceable as such. This Deed Rider has been approved by the Director of DHCD.

(b) In confirmation thereof the Grantor and the Owner intend, declare and covenant (i) that this Deed Rider, including all restrictions, rights and covenants contained herein, shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Owner and the Owner's successors in title and assigns, (ii) are not merely personal covenants of the Owner, and (iii) shall enure to the benefit of and be enforceable by the Municipality, the Monitoring Agent and DHCD and their successors and assigns, for the Term. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts have been satisfied in order for the provisions of this Deed Rider to constitute restrictions and covenants running with the land and that any requirements of privity of estate have been satisfied in full.

9. Notice. Any notices, demands or requests that may be given under this Deed Rider shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the following entities and parties in interest at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

Municipality:

Grafton Housing Trust
Town of Grafton
Grafton Memorial Municipal Center
30 Providence Road
Grafton, MA 01519
Attention: ?

Grantor:

Name of Developer?, LLC
Address?
Attention: ?General Counsel

Owner:

Monitoring Agent[s]

(1) Director, Local Initiative Program
DHCD
100 Cambridge Street
Suite 300
Boston, MA 02114

(2)

Others:

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

10. Further Assurances. The Owner agrees from time to time, as may be reasonably required by the Monitoring Agent, to furnish the Monitoring Agent upon its request with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and other material information pertaining to the Property and the Owner's conformance with the requirements of the Comprehensive Permit, Program and Program Guidelines, as applicable.

11. Enforcement. (a) The rights hereby granted shall include the right of the Municipality and the Monitoring Agent to enforce this Deed Rider independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief on account of any violations including without limitation relief requiring restoration of the Property to the condition, affordability or occupancy which existed prior to the violation impacting such condition, affordability or occupancy (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality and the Monitoring Agent.

(b) Without limitation of any other rights or remedies of the Municipality and the Monitoring Agent, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Deed Rider, the Municipality and Monitoring Agent shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Deed Rider;
- (ii) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (iii) if the violation is a sale of the Property to an Ineligible Purchaser except as permitted herein, the Monitoring Agent and the Municipality shall have the option to locate an Eligible Purchaser to purchase or itself purchase the Property from the Ineligible Purchaser on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Deed Rider; specific performance of the requirement that an Ineligible Purchaser shall sell, as herein provided, may be judicially ordered.

- (iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Deed Rider in the absence of a Compliance Certificate, by an action in equity to enforce this Deed Rider; and
 - (v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the Monitoring Agent and/or the Municipality in the event successful enforcement action is taken against the Owner or Owner's successors or assigns. The Owner hereby grants to the Monitoring Agent and the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Monitoring Agent and the Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Deed Rider against the Owner and to assert such a lien on the Property to secure payment by the Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Monitoring Agent and/or Municipality fails to enforce this Deed Rider as provided in this Section, DHCD, if it is not named as Monitoring Agent, shall have the same rights and standing to enforce this Deed Rider as the Municipality and Monitoring Agent.

- (d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Monitoring Agent and the Municipality the right to take all actions with respect to the Property which the Monitoring Agent or Municipality may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Deed Rider.

12. Monitoring Agent Services; Fees. The Monitoring Agent shall monitor compliance of the Project and enforce the requirements of this Deed Rider. As partial compensation for providing these services, a Resale Fee [] shall [] shall not be payable to the Monitoring Agent on the sale of the Property to an Eligible Purchaser or any other purchaser in accordance with the terms of this Deed Rider. This fee, if imposed, shall be paid by the Owner herein as a closing cost at the time of Closing, and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, his, her or their successors or assigns, for which the Monitoring Agent may bring an action and may seek an attachment against the Property.

13. Actions by Municipality. Any action required or allowed to be taken by the Municipality hereunder shall be taken by the Municipality's Chief Executive Officer or designee.

14. Severability. If any provisions hereof or the application thereof to any person or circumstance are judicially determined, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons

or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

15. Independent Counsel. THE OWNER ACKNOWLEDGES THAT HE, SHE, OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

16. Binding Agreement. This Deed Rider shall bind and inure to the benefit of the persons, entities and parties named herein and their successors or assigns as are permitted by this Deed Rider.

17. Amendment. This Deed Rider may not be rescinded, modified or amended, in whole or in part, without the written consent of the Monitoring Agent, the Municipality and the holder of any mortgage or other security instrument encumbering all or any portion of the Property, which written consent shall be recorded with the Registry.

Executed as a sealed instrument this _____ day of _____, 200_.

Grantor:

Owner: Name of Developer?, LLC

By _____

By _____

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 200__, before me, the undersigned notary public, personally appeared _____, the _____ of _____ in its capacity as the _____ of _____, proved to me through satisfactory evidence of identification, which was [a current driver’s license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 200__, before me, the undersigned notary public, personally appeared _____, the Manager of Project? proved to me through satisfactory evidence of identification, which was [a current driver’s license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as Manager of Project?.

Notary Public
My commission expires:

Appendix 5

Glossary of Housing Terms⁸

Affordable Housing

A subjective term, but as used in this Plan, refers to housing available to a household earning no more than 80% of area median income at a cost that is no more than 30% of total household income.

Area Median Income (AMI)

The estimated median income, adjusted for family size, by metropolitan area (or county in nonmetropolitan areas) that is adjusted by HUD annually and used as the basis of eligibility for most housing assistance programs. Sometimes referred to as “MFI” or median family income.

Chapter 40B

The state’s comprehensive permit law, enacted in 1969, which established an affordable housing goal of 10% for every community. In communities below the 10% goal, developers of low- and moderate-income housing can seek an expedited local review under the comprehensive permit process and can request a limited waiver of local zoning and other restrictions, which hamper construction of affordable housing. Developers can appeal to the state if their application is denied or approved with conditions that render it uneconomic, and the state can overturn the local decision if it finds it unreasonable in light of the need for affordable housing.

Chapter 44B

The Community Preservation Act Enabling Legislation that allows communities, at local option, to establish a Community Preservation Fund to preserve open space, historic resources and community housing, by imposing a surcharge of up to 3% on local property taxes. The state provides matching funds from its own Community Preservation Trust Fund, generated from an increase in certain Registry of Deeds’ fees.

Comprehensive Permit

Expedited permitting process for developers building affordable housing under Chapter 40B “anti-snob zoning” law. A comprehensive permit, rather than multiple individual permits from various local boards, is issued by the local zoning boards of appeals to qualifying developers.

Department of Housing and Community Development (DHCD)

The state’s lead agency for housing and community development programs and policy. It oversees state-funded public housing, administers rental assistance programs, provides funds for municipal assistance, and funds a variety of programs to stimulate the development of affordable housing.

⁸ Heudorfer, Bonnie, “Taking the Initiative: A Guidebook on Creating Local Affordable Housing Strategies”, Citizens Housing and Planning Association with funding from the Massachusetts Housing Partnership Fund, November 2002.

Determination of Project Eligibility

The Determination of Project Eligibility is issued by DHCD for LIP comprehensive permit applications that meet all LIP criteria and enables the project sponsor to submit its comprehensive permit application to the municipality's Zoning Board of Appeals.

Fair Housing Act

Federal legislation, first enacted in 1968, that provides the Secretary of HUD with investigation and enforcement responsibilities for fair housing practices. It prohibits discrimination in housing and lending based on race, color, religion, sex, national origin, handicap, or familial status. There is also a Massachusetts Fair Housing Act, which extends the prohibition against discrimination to sexual orientation, marital status, ancestry, veteran status, children, and age. The state law also prohibits discrimination against families receiving public assistance or rental subsidies, or because of any requirement of these programs.

Inclusionary Zoning

A zoning ordinance or bylaw that requires a developer to include affordable housing as part of a development or contribute to a fund for such housing.

Infill Development

The practice of building on vacant or undeveloped parcels in dense areas, especially urban and inner suburban neighborhoods. Promotes compact development, which in turn allows undeveloped land to remain open and green.

Local Initiative Program (LIP)

A state program under which communities may use local resources and DHCD technical assistance to develop affordable housing that is eligible for inclusion on the state Subsidized Housing Inventory (SHI). LIP is not a financing program, but the DHCD technical assistance qualifies as a subsidy and enables locally supported developments that do not require other financial subsidies to use the comprehensive permit process. At least 25% of the units must be set-aside as affordable to households earning less than 80% of area median income.

MassHousing (formerly the Massachusetts Housing Finance Agency, MHFA)

A quasi-public agency created in 1966 to help finance affordable housing programs. MassHousing sells both tax-exempt and taxable bonds to finance its many single-family and multi-family programs.

Metropolitan Statistical Area (MSA)

The term is also used for CMSAs (consolidated metropolitan statistical areas) and PMSAs (primary metropolitan statistical areas) that are geographic units used for defining urban areas that are based largely on commuting patterns. The federal Office of Management and Budget defines these areas for statistical purposes only, but many federal agencies use them for programmatic purposes, including allocating federal funds and determining program eligibility. HUD uses MSAs as its basis for setting income guidelines and fair market rents.

Mixed-Income Housing Development

Development that includes housing for various income levels.

Mixed-Use Development

Projects that combine different types of development such as residential, commercial, office, industrial and institutional into one project.

Overlay Zoning

A zoning district, applied over one or more other districts that contains additional provisions for special features or conditions, such as historic buildings, affordable housing, or wetlands.

Public Housing Agency (PHA)

A public entity that operates housing programs: includes state housing agencies (including DHCD), housing finance agencies and local housing authorities. This is a HUD definition that is used to describe the entities that are permitted to receive funds or administer a wide range of HUD programs including public housing and Section 8 rental assistance.

Regional Non-profit Organizations

Regional non-profit organizations include nine private, non-profit housing agencies, which administer the Section 8 Program on a statewide basis, under contract with DHCD. Each agency serves a wide geographic region. Collectively, they cover the entire state and administer over 15,000 Section 8 vouchers. In addition to administering Section 8 subsidies, they administer state-funded rental assistance (MRVP) in communities without participating local housing authorities. They also develop affordable housing and run housing rehabilitation and weatherization programs, operate homeless shelters, run homeless prevention and first-time homebuyer programs, and offer technical assistance and training programs for communities. Community Teamwork, Inc. serves as Rowley's regional non-profit organization.

Regional Planning Agencies (RPAs)

These are public agencies that coordinate planning in each of thirteen regions of the state. They are empowered to undertake studies of resources, problems, and needs of their districts. They provide professional expertise to communities in areas such as master planning, affordable housing and open space planning, and traffic impact studies. With the exception of the Cape Cod and Nantucket Commissions, however, which are land use regulatory agencies as well as planning agencies, the RPAs serve in an advisory capacity only. The Merrimack Valley Planning Commission serves as Rowley's regional planning agency.

Request for Proposals (RFP)

A process for soliciting applications for funding when funds are awarded competitively or soliciting proposals from developers as an alternative to lowest-bidder competitive bidding.

Section 8

Refers to the major federal (HUD) program – actually a collection of programs – providing rental assistance to low-income households to help them pay for housing. Participating tenants pay 30% of their income (some pay more) for housing (rent and basic utilities) and the federal subsidy pays the balance of the rent. The Program is now officially called the Housing Choice Voucher Program.

Smart Growth

The term used to refer to a rapidly growing and widespread movement that calls for a more coordinated, environmentally sensitive approach to planning and development. A response to the problems associated with unplanned, unlimited suburban development – or sprawl – smart growth principles call for more efficient land use, compact development patterns, less dependence on the automobile, a range of housing opportunities and choices, and improved jobs/housing balance.

Subsidy

Typically refers to financial assistance that fills the gap between the costs of any affordable housing development and what the occupants can afford based on program eligibility requirements. Many times multiple subsidies from various funding sources are required, often referred to as the “layering” of subsidies, in order to make a project feasible. In the state’s Local Initiative Program (LIP), DHCD’s technical assistance qualifies as a subsidy and enables locally supported developments that do not require other financial subsidies to use the comprehensive permit process. Also, “internal subsidies” refers to those developments that do not have an external source(s) of funding for affordable housing, but use the value of the market units to “cross subsidize” the affordable ones.

Subsidized Housing Inventory (SHI)

This is the official list of units, by municipality, that count toward a community’s 10% goal as prescribed by Chapter 40B comprehensive permit law.

U.S. Department of Housing and Urban Development (HUD)

The primary federal agency for regulating housing, including fair housing and housing finance. It is also the major federal funding source for affordable housing programs.